

1 (Whereupon, end of in camera
2 proceedings.)

3 REDIRECT EXAMINATION

4 BY

5 MR. FEIN:

6 Q. Mr. Oroni, during cross examination, Counsel
7 for Nicor asked a number of questions regarding
8 certain of your proposals in your direct and rebuttal
9 testimony. Do you recall that line of questioning?

10 A. Yes, I do.

11 Q. And, specifically, do you recall the line of
12 questioning regarding your proposal to allow
13 transporters to make intraday nominations?

14 A. Yes, I do.

15 Q. And can you explain why you've made some
16 recommendations to the Commission.

17 A. Yes. Our proposal on intraday noms was
18 focused on helping the customers manage and derive
19 benefits from their storage capacity asset that
20 they're paying Nicor Gas for.

21 MR. FEIN: No further redirect.

22 JUDGE BRODSKY: Recross?

1 MR. ZIBART: No, your Honor.

2 JUDGE BRODSKY: Thank you, Mr. Oroni.

3 MR. REICHART: Your Honor, John Reichart on
4 behalf of Staff. I have a short housekeeping matter.

5 I tendered to the court reporter three
6 copies of ICC Staff Exhibit 24, which is the
7 affidavit of Mark Maple. His affidavit is provided
8 in support of Mr. Maple's direct testimony, which is
9 marked as ICC Staff Exhibit 6.0, and his rebuttal
10 testimony, ICC Staff Exhibit 15.0, along with any
11 attached schedules.

12 It's my understanding that no parties have
13 cross examination for Mr. Maple. And we are,
14 therefore, requesting that ICC Staff Exhibits 6, 15,
15 and 24 be entered into the record at this time.

16 JUDGE BRODSKY: Any objections? Hearing none, 6,
17 15, and 24 are admitted.

18 (Whereupon, Staff
19 Exhibit Nos. 6, 15 and 24 were
20 admitted into evidence
21 as of this date.)

22 MR. REICHART: Thank you, your Honor.

1 MR. MOORE: I have a similar housekeeping matter
2 for Mr. Hilton's testimony.

3 JUDGE BRODSKY: Okay.

4 (Whereupon, BEAR
5 Exhibit No. 2 was
6 marked for identification
7 as of this date.)

8 MR. MOORE: So I've had the court reporter mark
9 the affidavit of Ms. B.J. Hilton on behalf of
10 Business Energy Alliance and Resources, LLC, marked
11 as BEAR Exhibit 2. This is in support of the
12 testimony of Ms. Hilton, BEAR Exhibit 1.

13 No party has any cross examination of her.
14 And so we would ask that BEAR Exhibit 1 be admitted
15 into the record with the affidavit supporting that.
16 No cross examination.

17 JUDGE BRODSKY: Are there any objections?
18 Hearing none, then BEAR 1 and 2 are admitted.

19 (Whereupon, BEAR
20 Exhibit Nos. 1 and 2 were
21 admitted into evidence
22 as of this date.)

1 JUDGE BRODSKY: When you're ready to begin, call
2 your witness.

3 MR. MOORE: I'd like to call the witness of
4 Dominion Retail, Inc., Mr. James Crist.

5 (Witness sworn.)

6 JAMES L. CRIST,
7 called as a witness herein, having been first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MR. MOORE:

12 Q. Could you please state your name for the
13 record.

14 A. I'm James L. Crist.

15 Q. And what's your business address?

16 A. Suite 1014 226 Yarmouth, Y-a-r-m-o-u-t-h,
17 Drive, in Allison Park, Pennsylvania.

18 Q. I hand you what has been marked as the
19 testimony of James L. Crist marked as Dominion Retail
20 Exhibit 1 consisting of 25 pages of direct testimony
21 and Exhibits JL 1 through -- or JLC 1 through JLC 1.1
22 through JLC 1.4. Did you prepare this testimony or

1 was it prepared under your direction?

2 A. Yes, it was.

3 Q. And if asked the same questions today, would
4 you give the same answers?

5 A. Yes.

6 Q. To the best of your knowledge, are the
7 answers in this testimony true and correct?

8 A. Yes.

9 Q. Do you have any changes to this testimony?

10 A. No.

11 Q. I now hand you what has been marked as
12 Dominion Retail, Inc., Exhibit 2 marked in rebuttal
13 testimony of James L. Crist consisting of 12 pages of
14 testimony and two exhibits marked JLC 2.1 and
15 JLC 2.2. Did you prepare this testimony or was it
16 prepared under your direction?

17 A. Yes.

18 Q. And if asked the same questions today, would
19 you give the same answers?

20 A. Yes.

21 Q. And to the best of your knowledge, is the
22 information contained in here true and correct?

1 A. Yes.

2 Q. Do you have any changes to this testimony?

3 A. No.

4 MR. MOORE: At this time, I move into evidence

5 Dominion Retail, Inc., Exhibit 1 and Exhibit 2.

6 JUDGE BRODSKY: Any objection?

7 MR. ZIBART: No, your Honor.

8 JUDGE BRODSKY: They're admitted subject to

9 cross. And you may proceed.

10 (Whereupon, JLC

11 Exhibit Nos. 1 and 2 were

12 admitted into evidence

13 as of this date.)

14 MR. ZIBART: Thank you, your Honor.

15 CROSS EXAMINATION

16 BY

17 MR. ZIBART:

18 Q. Good morning, Mr. Crist.

19 A. Good morning.

20 Q. With your rebuttal testimony, you submitted

21 some draft rules; is that right?

22 A. That's correct.

1 Q. And those are attachment JLC 2-1 to your
2 rebuttal testimony?

3 A. There's two sets of draft rules, 2.1 and
4 2.2.

5 Q. Okay. And you base those rules on the rules
6 of another local distribution company; is that right?

7 A. Primarily the rules of East Ohio Gas and
8 Ohio.

9 Q. And that's the LDC for the Cleveland area?

10 A. It covers northeast Ohio; Cleveland, Akron,
11 Canton.

12 Q. And you use those as the basis for your
13 rules here because you found them to be reasonable
14 and favorable to Dominion Retail's business there?

15 A. A number of reasons. They seem to be
16 reasonable and favorable to the customers in the LDC
17 service territory. They provide the suppliers the
18 necessary flexibility that we're looking for here in
19 the Nicor service territory. And they have a very
20 successful program in terms of participation.

21 Q. And you found them reasonable and favorable
22 to Dominion Retail's business?

1 A. They're reasonable for the Dominion Retail
2 and the other suppliers.

3 Q. Do you recall a full name of east Ohio?

4 A. Well, it's East Ohio Gas Company doing
5 business today as Dominion East Ohio.

6 Q. So it's Dominion East Ohio. That's a
7 subsidiary of Dominion?

8 A. Dominion Resources, Inc.

9 Q. So it's an affiliate of Dominion Retail; is
10 that correct?

11 A. That's correct.

12 Q. Now, Dominion in this docket is requesting
13 some reductions in customer select costs; is that
14 fair?

15 A. Well, yes.

16 Q. Okay. And would you agree that the
17 reductions in customer select costs would result in
18 an increase in costs to sales customers?

19 A. No.

20 Q. Okay. On Page 6 of your direct testimony,
21 you say that the Commission should direct Nicor Gas
22 to provide customer select suppliers on behalf of

1 their customers the ability to manage storage on a
2 daily basis and make temperature sensitive
3 withdrawals on all days during the withdrawal season.
4 Do you see that? I think it's on Line 7 -- 7 through
5 10.

6 A. Yes.

7 Q. Okay. And I just want your statement there
8 to be clear for the Commission. You're not
9 suggesting that Dominion actually wants to manage
10 Nicor Gas' storage fields, are you?

11 A. That's correct. We're not going to come out
12 and take charge of the storage fields. We're looking
13 for the flexibility to nominate.

14 Q. Is it your understanding that Dominion has
15 the ability to accept or reject customers based on
16 the customer's credit rating?

17 A. They have an ability to do so.

18 Q. And if the Dominion customer is delinquent,
19 Dominion can return the customer to Nicor Gas' sales
20 service?

21 A. Yes, eventually that's the process.

22 Q. Now, Dominion has suggested some changes in

1 the customer select program before, has it not?

2 A. Yes, with Nicor.

3 Q. Right. And you're aware of at least a few
4 times that Dominion has suggested such changes to
5 Nicor?

6 A. Yes.

7 Q. For example, Dominion asked that it not be
8 required to provide evidence of supply and
9 transportation contract, but instead to show that it
10 held a firm supply contract from Nicor's
11 interconnection with the pipelines; right?

12 A. Yes.

13 Q. End result of that request was that Nicor
14 agreed to that; is that right?

15 A. Yes.

16 Q. And Dominion asked for a change in the
17 nominating procedures for holidays. Do you remember
18 that?

19 A. Yes.

20 Q. So that Dominion could make its nominations
21 the day before with the market still open; right?

22 A. Yes.

1 Q. End result was that Nicor agreed to that as
2 well?

3 A. Yes.

4 MR. ZIBART: I have no further questions for
5 Mr. Crist. Thank you.

6 JUDGE BRODSKY: Redirect?

7 MR. MOORE: Very brief. Just a few questions.

8 REDIRECT EXAMINATION

9 BY

10 MR. MOORE:

11 Q. Mr. Crist, you were asked some questions
12 about the reduction in costs that have been
13 recommended in your testimony. Do you remember that
14 question -- those questions?

15 A. Yes.

16 Q. And what was your understanding of the
17 nature of your response? What were you thinking of
18 at that point?

19 A. When I said yes, anticipating cost
20 reductions, I was talking about cost reductions
21 pertaining to the gas costs that the choice suppliers
22 would recognize and if we get the type of flexibility

1 that we're advocating in my testimony.

2 Q. And so you were not talking about the
3 reduction in delivery costs, right, of Nicor?

4 A. No, I was not.

5 MR. MOORE: That's all I have.

6 JUDGE BRODSKY: Recross?

7 MR. ZIBART: No cross.

8 JUDGE BRODSKY: Thank you, Mr. Crist.

9 The next witness of the day is Anderson.
10 Are we set to proceed?

11 MS. BARRETT: We are going to be using one
12 exhibit that was not prefiled.

13 (Whereupon, Vanguard
14 Exhibit No. 2 was
15 marked for identification
16 as of this date.)

17 MS. BARRETT: Good morning. Ronit Barrett on
18 behalf of Vanguard Energy Services, LLC, of the law
19 firm of Eimer Stahl Klevorn & Solberg, 224 South
20 Michigan Avenue, Suite 1100, Chicago, Illinois 60604.

21 Vanguard Energy calls its first witness,
22 Mr. Neil Anderson.

1 (Witness sworn.)

2 NEIL ANDERSON,

3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY

7 MS. BARRETT:

8 Q. Mr. Anderson, will you please state and
9 spell your full name for the record.

10 A. Sure. It's Neil, N-E-I-L, last name is
11 Anderson, A-n-d-e-r-s-o-n.

12 Q. Mr. Anderson, by whom are you employed and
13 in what capacity?

14 A. I am a partner at Vanguard Energy Services.
15 My title is director of operations.

16 Q. And are you the same Neil Anderson who has
17 submitted testimony on behalf of Vanguard in this
18 docket?

19 A. I am.

20 Q. Mr. Anderson, do you have before you a
21 document identified as Vanguard Exhibit 1?

22 A. I do.

1 Q. Does that document contain nine pages of
2 questions and answers, a cover page, and three pages
3 of exhibits?

4 A. It does.

5 Q. Is this the direct testimony that you
6 submitted in this docket?

7 A. It is.

8 Q. And was this prepared under your direction?

9 A. Yes, it was.

10 Q. Do you have any corrections, updates, or
11 additions to this testimony?

12 A. We have just the one addition that we
13 responded to the company's data request. It was our
14 response version No. 2.08 whereby we're stating that
15 the utility is asking for a dramatic reduction in
16 service flexibility that they're currently providing
17 by having a 90 percent injection and 10 percent bank
18 capacity at the end of April.

19 And due to the fact that they're putting
20 these constraints on, we're seeing that the reduction
21 in the level of services should also be met with a
22 reduction in costs to the transportation customers.

1 MR. ZIBART: I'll object to the supplemental
2 direct and move to strike it from the record.

3 The -- Vanguard submitted direct testimony
4 in this docket and did not submit rebuttal testimony
5 when rebuttal testimony was due. This data request
6 response was authored in March of this year and could
7 have been submitted as rebuttal testimony.

8 So, procedurally, I object to having it come
9 into the record as supplemental direct at this time.

10 MS. BARRETT: This information was provided
11 previously in a data request response, so it is not a
12 surprise. And it wasn't directly responsive. So we
13 didn't feel that it was appropriate to do it as
14 rebuttal testimony.

15 JUDGE BRODSKY: The motion to strike is denied.
16 You may conduct cross examination now.

17 MS. BARRETT: Did you say they should conduct
18 cross examination now?

19 JUDGE BRODSKY: I said they may conduct cross
20 examination. Inasmuch as the -- what appears to be
21 tendered, it is not stricken at this time.

22 MS. BARRETT: Okay.

1 BY MS. BARRETT:

2 Q. Mr. Anderson, I've placed before you a
3 document identified as Vanguard Exhibit 2. Is this
4 the data request response that you just referred to?

5 A. It is.

6 Q. Does it contain three pages?

7 A. It does.

8 Q. Other than this addition to your testimony,
9 if I asked you the same questions today that are in
10 Exhibit 1, would your answers be the same?

11 A. It would be the same.

12 MS. BARRETT: At this time, Vanguard moves for
13 the admission of Vanguard Exhibits 1 and 2.

14 JUDGE BRODSKY: As to Exhibit No. 1, is there any
15 objection?

16 MR. ZIBART: No, your Honor.

17 JUDGE BRODSKY: As to Exhibit No. 2, is there any
18 further objection?

19 MR. ZIBART: No, just the objection I stated.

20 JUDGE BRODSKY: Okay. Is Exhibit 2 Page 3 of the
21 packet or the entire packet?

22 MS. BARRETT: It is the entire packet just to

1 show the date that it was served and the cover page.

2 Really the only relevant portion is Page 3.

3 JUDGE BRODSKY: Okay. All right. There being no
4 further objection besides the one that we already
5 dealt with, Exhibits 1 and 2 are admitted, subject to
6 cross. You may proceed.

7 (Whereupon, Vanguard
8 Exhibit Nos. 1 and 2 were
9 admitted into evidence
10 as of this date.)

11 MR. ZIBART: So may I inquire?

12 JUDGE BRODSKY: You may proceed.

13 CROSS EXAMINATION

14 BY

15 MR. ZIBART:

16 Q. Good morning, Mr. Anderson.

17 A. Good morning, sir.

18 Q. In your direct testimony, at Page 3, Lines 6
19 and 7, you recommend to the Commission that the
20 starting point for calculated storage banking service
21 should be 1,497,400,000 therms?

22 A. That's correct.

1 Q. That number is Nicor's non-coincident peak
2 top gas; is that correct?

3 A. That's correct.

4 Q. And that would be the total of the peak top
5 gas from each of Nicor Gas' storage fields?

6 A. That's my understanding.

7 Q. And that top gas in each storage field, you
8 understand, may not actually peak on the same day; is
9 that correct?

10 A. That's correct.

11 Q. And so you understand that there is no
12 one day during the year that Nicor Gas will actually
13 have 1,497,400,000 therms of top gas; is that right?

14 A. That's been my understanding.

15 Q. And you understand that Nicor Gas does not
16 actually cycle that much gas during the course of the
17 year?

18 A. That's what I've read.

19 Q. You have no reason to disbelieve that?

20 A. I do not.

21 Q. Okay. I notice that back when you were with
22 PG&E Energy Services, you were responsible for

1 managing their storage asset in the Chicago market?

2 A. That's correct.

3 Q. And what was in PG&E's storage asset that
4 you were managing?

5 MS. BARRETT: I'm going to object to that
6 question. I'm not sure if he's at liberty to respond
7 to that. It's confidential.

8 MR. ZIBART: Okay. Well, then he shouldn't have
9 put it in his direct testimony.

10 JUDGE BRODSKY: Can you point to the spot in the
11 direct testimony?

12 MR. ZIBART: Page 1, Line 15, through Page 2,
13 Line 1.

14 JUDGE BRODSKY: Okay. The objection is
15 overruled. The witness may answer.

16 THE WITNESS: Could you repeat the question,
17 please.

18 BY MR. ZIBART:

19 Q. What was PG&E's storage asset that you
20 managed?

21 A. The aggregation of customer accounts was the
22 storage asset.

1 Q. So the storage asset was not a gas storage
2 field?

3 A. It was not PG&E Energy Services'
4 specifically (sic) gas field. It was the Nicor
5 customers that are utilizing Nicor's storage, that's
6 correct.

7 Q. Okay. And did you manage that asset from a
8 financial point of view or a physical storage?

9 A. Could you define physical and financial?

10 Q. Well, I guess I'm trying to get at whether
11 you were controlling the physical gas storage field
12 in terms of regulating pressure and controlling
13 injections and that kind of thing, or whether you're
14 talking about financially managing a portfolio?

15 A. I did not physically open and close a valve
16 in a storage field.

17 Q. Okay. And you are not, yourself, an
18 engineer; is that right?

19 A. No, sir.

20 Q. Do you consider yourself qualified to give
21 expert testimony on issues involving physical
22 properties of storage assets?

1 A. No.

2 Q. Do you consider it important to cycle gas in
3 and out of a storage field?

4 A. There again, I'm not an engineer. I can't
5 testify to that.

6 Q. Okay. And so you don't know what happens if
7 a gas storage field operator doesn't cycle its gas?

8 A. No, sir.

9 Q. You gave some examples in your testimony of
10 injection withdrawal activities of a hypothetical
11 transportation customer that injects when Nicor Gas
12 is withdrawing and withdraws when Nicor Gas is
13 injecting. Do you remember that?

14 A. Yes.

15 Q. And you analyzed that as to Nicor Gas' cost
16 of gas; is that right? I believe it's Exhibit 1,
17 Schedule 1, to your testimony.

18 A. Yes.

19 Q. I'm sorry. Were you answering my questions?

20 A. Their overall cost of gas, yes, not any
21 specific commodity price per therm.

22 Q. And in your example, you didn't examine

1 whether Nicor Gas would be able to completely cycle
2 its gas fields in your scenario; is that right?

3 A. I'm sorry. I either did or did not is what
4 you're asking?

5 Q. My question -- I believe you did not. And
6 I'm asking if that's -- if my understanding is
7 correct.

8 You didn't examine whether Nicor Gas would
9 be able to completely cycle its gas fields in this
10 scenario?

11 A. Well, I believe the scenario starts off with
12 a beginning off to the right-hand side underneath
13 Nicor aggregate storage bank. I do believe it starts
14 off with a base quantity of gas. It's 29,948,000
15 therms.

16 I do believe that you see starting in April,
17 up to and including the month of October, that it
18 does increase. And then from November through March,
19 it does decrease. So I would say there is a cycle
20 there, yes.

21 Q. There is a cycling. And, I guess, you're
22 not commenting on whether that's a complete cycling

1 from Nicor's point of view?

2 A. I would say it's a cycle. I'm not sure what
3 Nicor defines as a cycle from their standpoint.

4 Q. Okay. Does Vanguard Energy Services avail
5 itself of Nicor's hub services?

6 MS. BARRETT: I'm going to object. That's
7 competitively sensitive.

8 JUDGE BRODSKY: Overruled.

9 THE WITNESS: In what capacity do we use hub
10 service are you referring to?

11 BY MR. ZIBART:

12 Q. Do you use hub services?

13 A. We have.

14 Q. And in your view, what benefits does the hub
15 provide its users?

16 A. For us, it provides a balancing service.

17 Q. Anything else?

18 A. For us, no.

19 Q. Okay. Does the hub itself benefit sales
20 customers?

21 A. That, I do not know.

22 MR. ZIBART: I have no further questions for

1 Mr. Anderson. Thank you.

2 THE COURT: Redirect?

3 MS. BARRETT: Just one moment, your Honors.

4 (Discussion off the record.)

5 MS. BARRETT: No redirect.

6 JUDGE BRODSKY: Thank you, Mr. Anderson.

7 THE WITNESS: You're welcome.

8 JUDGE BRODSKY: Is there anyone further for

9 today?

10 MR. RIPPIE: Yes. We've made arrangements for

11 Mr. Thomas to go on. Ms. Doss was going to put him

12 on. We thought that that would be after the lunch

13 break. If it would be possible to take the noon

14 recess now, then we can put Mr. Thomas on and

15 conclude his testimony relatively promptly this

16 afternoon.

17 JUDGE ARIDAS: We're going to reconvene at 1:00.

18 MR. RIPPIE: Thank you.

19 (Lunch recess taken.)

20 JUDGE ARIDAS: All right. Is Mr. Thomas going to

21 be the only witness this afternoon?

22 MR. RIPPIE: Yes, that's correct.

1 JUDGE ARIDAS: How many parties are scheduled for
2 crossing?

3 MR. RIPPIE: Two.

4 MS. DOSS: Two.

5 JUDGE ARIDAS: We have approximately two and a
6 half hours of cross.

7 MR. RIPPIE: Mine is based on Mr. Kelter. And
8 Ms. Doss and I have spoken and based on what we
9 believe to be Mr. Thomas' responses to some
10 introductory materials, I expect that will be closer
11 to 45 or 50 minutes.

12 JUDGE ARIDAS: That's fine.

13 MR. KELTER: I expect mine to be closer to five
14 or ten max.

15 JUDGE ARIDAS: All right.

16 (Witness sworn.)

17 MS. DOSS: Cook County and Citizens Utility Board
18 calls Chris Thomas.

19 (Witness sworn.)

20

21

22

1 CHRISTOPHER C. THOMAS,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MS. DOSS:

7 Q. Could you please state your name for the
8 record.

9 A. Christopher C. Thomas.

10 Q. And have you previously filed testimony in
11 this proceeding?

12 A. I have.

13 Q. And turning your attention to CUB CCSAO
14 Exhibit 1.0, which is your direct testimony
15 consisting of 37 pages and attached Exhibits 1.01
16 through 1.14, is this your previously filed direct
17 testimony?

18 A. It is.

19 Q. And do you have any changes or corrections
20 to this testimony?

21 A. I do.

22 Q. And what are those?

1 A. On Line 426, beginning of the last -- the
2 sentence that ends on that line, the word "many"
3 should be changed to the word "some."

4 And then two lines down, Lines 428 to 429,
5 the clause, Leading to average usage, that should be
6 changed to, Which could lead to average usage.

7 And then I have one more change on Line 621.
8 In the parentheses there, Essentially how much more
9 gas consumers would use, should be changed to,
10 Essentially how many less gas consumers will use.

11 Those are all the changes that I have.

12 Q. All right. Now, with these corrections, are
13 you presenting CUB CCSAO Exhibit 1.0 with this
14 attached exhibit as your testimony today?

15 A. I am.

16 Q. And is this testimony true and accurate to
17 the best of your knowledge and belief?

18 A. As modified in my rebuttal testimony, it is.

19 Q. Now, turning your attention to CUB CCSAO
20 Exhibit 3.0, that consists of 36 pages of testimony,
21 including attached Exhibits 3.01 through 3.14. In
22 addition, there is -- there are two revised exhibits,

1 1.09 and 1.10. Is this your previously filed
2 rebuttal testimony?

3 A. It is.

4 Q. And do you have any changes or corrections
5 to this testimony?

6 A. Yes, I do. There was an errata filed to
7 this testimony previously. And I neglected to make a
8 couple changes consistent with that errata.

9 On Line 37, the words "rate base" should be
10 changed to "base rates." Two very different concepts
11 and I apologize for any confusion that that might
12 have caused.

13 Line 201, the phrase reading, Of demand
14 control of consumer rationing, should be, Of demand
15 control or consumer rationing.

16 Q. Any more changes?

17 A. Yes. Line 312, "rate base" in the middle of
18 the sentence should be changed to "base rate."

19 Line 313, "rate base" should be eliminated
20 from that line to make it flow.

21 And then one more change. On Line 823,
22 "rate base" should be changed to "base rate".

1 Once again, I apologize for any confusion
2 that may have resulted in those changes.

3 MR. RIPPIE: What was the last line?

4 THE WITNESS: 823.

5 BY MS. DOSS:

6 Q. Now, with those corrections, are you
7 presenting CUB CCSAO Exhibit 3.0 with the attached
8 exhibits and revised exhibits as your testimony
9 today?

10 A. I am.

11 Q. And is this testimony true and accurate to
12 the best of your knowledge and belief?

13 A. It is.

14 MS. DOSS: Your Honor, Cook County and CUB now
15 move to admit Exhibits 1.0 with attached
16 Exhibits 1.01 through 1.14, also Exhibit 3.0 with
17 attached Exhibits 3.01 through 3.14, and revised
18 Exhibits 1.9 through -- and 1.10.

19 In addition, your Honor, for the record, the
20 changes that were made today, we will be filing an
21 errata either later today or by tomorrow morning to
22 reflect those changes.

1 JUDGE ARIDAS: Okay. Are there any objections to
2 the aforementioned exhibits being admitted into the
3 record?

4 Hearing none, they are so admitted.

5 (Whereupon, CUB CCSAO
6 Exhibit Nos. 1.0, 3.0, 1.9, 1.10 were
7 admitted into evidence
8 as of this date.)

9 JUDGE ARIDAS: Who would like to proceed with
10 cross? Mr. Robertson?

11 MR. ROBERTSON: Thank you.

12 CROSS EXAMINATION

13 BY

14 MR. ROBERTSON:

15 Q. Mr. Thomas, could you please refer to
16 Page 20 of your direct testimony, Exhibit 1.0.

17 A. Yes, sir.

18 Q. I'd like to talk with you about your
19 testimony on that --

20 JUDGE ARIDAS: Mr. Robertson, speak into the mic.

21 MR. ROBERTSON: I'm sorry.

22

1 BY MR. ROBERTSON:

2 Q. I'd like to talk with you about your
3 testimony on that page and the change that you made.

4 The customers that you reference at
5 Line 427, what types of customers are those?

6 A. Specifically, grain drying customers. There
7 may be other customers that I'm not aware of, but
8 those are the customers I'm speaking to specifically.

9 Q. And what was it that caused you to modify
10 your testimony here?

11 A. There was a data request from the company
12 and I think it was 3.23 -- I can't recall off the top
13 of my head -- that made me think more about this. I
14 went back to look at the data and it was an
15 inaccurate to say "many." "Some" is a much better
16 characterization.

17 Q. Were you able to identify the number of
18 grain drying customers?

19 A. I was not.

20 Q. All right. What made you change then from
21 "many" to "some?"

22 A. What I did was I went back and looked at all

1 the data that I had in the company's embedded cost of
2 service study. And it's difficult to draw that
3 conclusion that many customers have peaks out of the
4 days of the year from that data alone.

5 Q. All right. And what was it about that data
6 that allowed you to draw the conclusion that some
7 grain drying customers have peaks that occur on days
8 other --

9 A. It was that data in conjunction with
10 Ms. Hilton's testimony

11 Q. I'm sorry. I didn't hear you.

12 A. It was that data in conjunction with the
13 testimony filed by Mr. Hilton from BEAR.

14 Q. All right. So would it be correct to say
15 that there are -- relative to the total number of
16 customers on the company's system, grain drying
17 customers are relatively few in number?

18 A. I think that's a correct statement.

19 Q. Okay. And would you also agree that their
20 load is relatively small compared to the total load
21 on the company system?

22 A. I believe that's correct.

1 Q. Now, also on Page 20, beginning at Line 439,
2 you talk about interruptible customers who receive
3 some level of gas service on the peak days; is that
4 correct?

5 A. Yes.

6 Q. Now, do you agree or disagree with the idea
7 that interruptible service can be considered similar
8 to demand response?

9 A. I think that's an accurate characterization.

10 Q. And is demand response sometimes considered
11 a form of energy efficiency?

12 A. It is.

13 Q. If these customers are willing to undertake
14 the risk of interruptible rates, do you believe their
15 rates should reflect that?

16 A. I think they could. And that's a rate
17 design question.

18 Q. Now, to the extent that we consider this to
19 be a demand response program, would part of the
20 benefits of that program be to help minimize the need
21 for additional transmission and distribution main
22 capacity?

1 A. To the extent we consider them energy
2 efficient, the answer is yes.

3 Q. Now, if we allocate a portion of the
4 transmission distribution system to these customers,
5 in any event, doesn't that remove the benefit of the
6 demand response program?

7 A. I think in your question, you mixed rate
8 design and cost allocation. I think the rates can be
9 designed such that that incentive is provided to
10 those customers, but the costs still are driven in
11 the way that they --

12 Q. So are you suggesting that it would be
13 appropriate to allocate the costs from them and not
14 collect it through rates?

15 A. Well, I think that's a rate design question.
16 And as you inferred, there are questions that may
17 make it reasonable to allocate -- collect less
18 revenue from those customers. But that's not a cost
19 issue. That's a rate design issue.

20 MR. ROBERTSON: No further questions.

21 THE WITNESS: Thank you.

22 JUDGE ARIDAS: Mr. Rippie?

1 CROSS EXAMINATION

2 BY

3 MR. RIPPIE:

4 Q. Mr. Thomas, my name is Glenn Rippie. We've
5 previously met. I'll be asking you a few questions
6 this afternoon on behalf of Nicor Gas Company.

7 If at any time you don't understand my
8 questions, I'm sure you'll tell me you don't
9 understand?

10 A. I will.

11 Q. In your direct testimony, Mr. Thomas, you've
12 proposed a hypothetical capital structure be adopted
13 by the Commission for ratemaking purposes; is that
14 correct?

15 A. That's correct.

16 Q. And that hypothetical capital structure did
17 not include any short-term back; is that correct?

18 A. That is also correct.

19 Q. Are you familiar with Nicor Gas' rebuttal
20 testimony responding to your recommendation that a
21 hypothetical capital structure be used?

22 A. Yes.

1 Q. In your rebuttal testimony, you do not
2 directly respond to that Nicor Gas testimony; is that
3 correct?

4 A. That's also correct.

5 Q. Is that because, in your rebuttal testimony,
6 you chose instead of continuing to urge the
7 Commission to adopt the hypothetical capital
8 structure, that they instead adopt a capital
9 structure proposed by Staff; is that correct?

10 A. The company's actual capital structure
11 including short-term debt, yes.

12 Q. That is the capital structure proposed by
13 Staff?

14 A. That's correct.

15 Q. Prior to submitting your rebuttal testimony
16 to the Commission, you did review the financial
17 circumstances that Nicor Gas was likely to find
18 itself in during the 2005 test year, did you not?

19 A. I did.

20 Q. And did the materials that you reviewed
21 include the Part 285 filing and the work papers
22 thereto that related both to the company's use of

1 capital and to the company's rate base?

2 A. Generally, yes.

3 Q. Did you believe you did an adequate job of
4 reviewing those materials prior to filing your direct
5 testimony?

6 MS. DOSS: What do you mean by "adequate?"

7 MR. RIPPIE: Sufficient to render the testimony
8 that the witness filed.

9 THE WITNESS: I'll admit I did overlook the
10 short-term debt component of the capital structure
11 and corrected it in my rebuttal testimony.

12 BY MR. RIPPIE:

13 Q. Is it the position of CUB and the CCSAO that
14 every utility that has short-term borrowing
15 outstanding during the test year should have the full
16 balance of that borrowing included in its capital
17 structure for ratemaking purposes?

18 A. I think that's going to depend upon the
19 circumstances surrounding it. In this case, about 13
20 point --

21 Q. I'm not asking you about this case. I'm
22 asking you about your general position. And your

1 answer is it would depend upon the circumstances?

2 A. It generally depends.

3 Q. So is the answer to my question then no,
4 that it is not your position that every utility
5 should have any short-term debt balances included in
6 its capital structure?

7 A. Ask the question one more time.

8 Q. Sure. I'm sorry.

9 Is it the position of CUB and the Cook
10 County State's Attorney's Office that every utility
11 that has short-term balances -- short-term debt
12 balances during its test year should have the full
13 balance of those borrowings included in its capital
14 structure for ratemaking purposes?

15 A. Not necessarily.

16 Q. So would you agree that in determining
17 whether or not to include short-term debt in the
18 capital structure, the Commission should consider
19 factors other than the ratio of the various sources
20 of capital to total capitalization?

21 A. I believe that's reasonable.

22 Q. Would you agree that the Commission in the

1 past has not added short-term debt to the capital
2 structures of utilities in every case where
3 short-term debt was outstanding even for the entire
4 test year?

5 A. With the qualifier in any given case, I
6 would agree with you.

7 Q. Would you agree that there are numerous
8 cases where the Commission has included short-term
9 debt in a capital structure but has included less
10 than 100 percent of the test year average balance?

11 A. I think that's accurate.

12 Q. Would you agree that in making the decision
13 as to whether or not short-term debt balances should
14 be included in a utility's capital structure, the
15 Commission should properly consider the nature of the
16 investments in the utility's rate base?

17 A. That's certainly one thing to consider.

18 Q. Isn't it something that they ought to
19 consider?

20 A. It's definitely relevant.

21 Q. Would you also agree that in making the
22 decision as to whether or not the Commission should

1 include short-term debt in a utility's capital
2 structure, the Commission should consider how
3 investors will view the assets in the utility's rate
4 base?

5 A. I think they should consider how the
6 investors will view the utility as a whole, which
7 includes how they might view the assets in rate base.

8 Q. Fair enough. And is the reason that that's
9 true because how the investors view the utility as a
10 whole, as you say, will affect its total cost of
11 capital?

12 A. That's correct.

13 Q. Would you also agree that in making the
14 decision as to whether or not to include short-term
15 debt in the capital structure of a utility, the
16 Commission should include the appropriateness of the
17 components of the capital structure to the type of
18 assets included in the utility's rate base?

19 A. Would you ask me that question one more
20 time.

21 Q. Sure. I'm trying to make this as --
22 breaking it down as much as I can for simplicity.

1 The question was, in making the decision as
2 to whether or not to include short-term debt balances
3 in a utility's rate base, would you agree that the
4 Commission should consider the appropriateness of the
5 capital structure components to the assets included
6 in the utility's rate base?

7 MS. DOSS: I guess what do you mean by
8 "appropriateness?"

9 MR. RIPPIE: I'll rephrase it.

10 BY MR. RIPPIE:

11 Q. In making the decision to include or not
12 include short-term debt balances in a utility's
13 capital structure, would you agree that the
14 Commission should consider the relationship between
15 the characteristics of the various capital structure
16 components and the assets in rate base?

17 A. In considering the overall capital structure
18 consistent with other criteria that may be relevant
19 to capital structure determination, I'd say that
20 that's correct.

21 Q. I don't mean to imply that that would be the
22 only factor, but that would be one factor?

1 A. I wanted to make sure that was clear, yes,
2 sir.

3 Q. Now, wouldn't you agree that investors, when
4 deciding whether to invest in the equity of a debt of
5 a utility, look at much more than just the ratio of
6 total debt to total capitalization?

7 A. Yes, that's accurate.

8 Q. And would you agree that they also look at
9 much more than just the ratio of short-term debt to
10 total capitalization when deciding on whether to
11 invest in the utility?

12 A. Yes. Investors consider many different
13 factors -- or at least licensed investors consider
14 many factors in deciding to invest in a company.

15 Q. In making the decision as to whether or not
16 to add short-term debt to Nicor Gas' rate base in
17 this case, should the Commission consider the nature
18 of investments in rate base assets that Nicor Gas
19 will be making during the test year?

20 A. I believe that's one of several factors they
21 should consider.

22 Q. Would their consideration appropriately

1 include the purpose for which those assets were
2 acquired?

3 A. That could be one of the factors.

4 Q. Should it be one of the factors?

5 A. Yes, it should.

6 Q. Should one of the factors also be the life
7 span of the assets being acquired?

8 A. Yes.

9 Q. Should one of the factors also be whether
10 the same types of assets appear in the rate base year
11 after year after year?

12 A. Certainly.

13 Q. Should it also matter to the Commission how
14 episodic or limited in duration the investment in
15 assets is likely to be?

16 A. Ask me the question one more time.

17 Q. Sure.

18 Should it also matter to the Commission how
19 episodic or limited in duration the investment in
20 assets is likely to be?

21 A. That's one more factor the Commission should
22 consider.

1 Q. So you -- would you agree that in the real
2 world, in the eyes of an investor, which sources of
3 capital a utility company should turn to will depend
4 upon the nature of the company's need for funds?

5 A. And the costs of those relative investment
6 instruments, yes.

7 Q. Both?

8 A. Yes, yes.

9 Q. You predicted my next question.

10 Were you present yesterday for the cross
11 examination of Mr. McNally?

12 A. I was.

13 Q. Were you present for the cross examination
14 of Mr. Beyer?

15 A. Yes.

16 Q. Hopefully, that will allow me to be a little
17 bit quicker on this subject.

18 Would you agree with the Company witnesses
19 and the two Staff witnesses I referred to that
20 utilities in Illinois are entitled to a revenue
21 requirement that covers their reasonable and prudent
22 cost of service, including a fair return of and on

1 their investments?

2 A. Yes, the opportunity for a fair return of
3 and on their investments, yes. I don't know that
4 it's a guaranteed return.

5 Q. I didn't mean to imply that. By
6 opportunity, we mean that they should be set with the
7 expectation that that would be recovered with the
8 understanding that events could happen that could
9 make their actual recoveries either greater or lesser
10 than that amount.

11 A. Absolutely.

12 Q. And do you agree that this revenue
13 requirement should include the costs of capital
14 included by the utility -- strike that, please.

15 Do you agree that it would be unjust and
16 unreasonable to adopt a revenue requirement that did
17 not include the expectation of a just and reasonable
18 return of and on the investments?

19 A. Could you ask me that one more time.

20 Q. Yeah. I think I made it circular. I'm
21 going to try to make it not circular.

22 Would you agree that it would be unjust and

1 unreasonable to adopt a revenue requirement that did
2 not include the expectation of a return of and on
3 investments at the rates demanded by investors?

4 MS. DOSS: I'm still not clear on that question.
5 The rates -- you said rates on something?

6 MR. RIPPIE: The rates of return. I'll -- I'm
7 happy to try it again. I don't want any unclarity at
8 all.

9 BY MR. RIPPIE:

10 Q. Would you agree that it would be unjust and
11 unreasonable to adopt a revenue requirement that did
12 not include the expectation of a return of and on
13 investments at the rates of return demanded by
14 investors?

15 A. It would be unjust and unreasonable to not
16 allow a reasonable return on the company's
17 investment.

18 Q. Would you agree that all other things being
19 equal, if the rate of return is set too low, Nicor
20 Gas will not, in fact, get a just and reasonable
21 revenue requirement?

22 A. With the expectation that low is a relevant

1 terms, yes, sir. We can disagree what low means, but
2 certainly with that understanding.

3 Q. And all other things being equal, if the
4 return on equity component of the rate of return is
5 set too low, Nicor Gas will not get a just and
6 reasonable revenue requirement?

7 A. That's likely, not certain, but likely,
8 depending upon other factors, the other components,
9 and the overall rate of return.

10 Q. If the other components are set correctly
11 and the return on equity is set too low, then Nicor
12 Gas won't get a just --

13 A. Everything else equal, that's a true
14 statement.

15 Q. Would you agree that from the perspective of
16 Nicor Gas, when it decides to make an investment, all
17 sources of capital are not fungible?

18 A. Nicor Gas' investment decision is going to
19 depend on the lifetime -- the life of the asset. And
20 so, therefore, short-term debt may not be the most
21 appropriate long-term investment instrument. There's
22 got to be an instrument to fund a long-term

1 investment.

2 Q. Okay. So then I take it you would agree
3 with me that from the perspective of the utility
4 company, making an investment decision, all sources
5 of capital aren't fungible?

6 A. In investment decision-making, yes, they
7 shouldn't be.

8 Q. And you mentioned a couple of ways that
9 they're different. You mentioned one just now, which
10 is the terms. They also have different costs; right?

11 A. Right.

12 Q. And they will have different contractual
13 terms and obligations associated with them?

14 A. They likely will.

15 Q. And they may also have different sort of
16 up-front fees and costs associated with them?

17 A. Yes.

18 Q. Do you further agree that, all other things
19 being equal, a company like Nicor Gas will not access
20 the capital markets -- boy, that's a terrible
21 question. That sounds -- let me make it simpler.

22 Do you agree that, all other things being

1 equal, Nicor Gas will go in search of the cheapest
2 capital it can find?

3 A. They should, yes. I believe it's in the
4 interest of the shareholders that they do.

5 Q. And you didn't identify any evidence in this
6 case that Nicor Gas had done anything other than
7 that; right?

8 A. That's correct.

9 Q. Now, on your rebuttal testimony at Lines 105
10 through 107, you testified that Nicor -- I assume you
11 mean by that Nicor Gas -- wisely uses short-term debt
12 as a lower cost source of funding its obligations.
13 However, the use of short-term debt is a benefit that
14 directly accrues only to Nicor's shareholders. Do
15 you see that testimony?

16 A. Yes.

17 Q. If it is true that this particular use of
18 short-term debt was a cost-minimizing choice, that
19 would reduce Nicor Gas' operating expenses, would it
20 not?

21 A. It might. All else equal, yes.

22 Q. It would reduce -- okay. Fair enough.

1 A. There are ways it couldn't.

2 Q. If the only change we were examining was the
3 decision to invest or not to invest in that capital
4 component, if Nicor Gas invested in the lowest cost
5 capital component, its operating expenses would be
6 lower; right?

7 A. Yes.

8 Q. Now, Mr. Thomas, I'm going to give you a
9 hypothetical for, I hope, illustrative purposes.

10 I want you to imagine a company -- and I'm
11 going to try to pick a very simple scenario -- that
12 has a million dollars of assets on average over a
13 year. And that million dollars of assets on average
14 is comprised of \$500,000 -- I want to pick something
15 boring, so I'm going to pick gold. Okay? It just
16 sits there.

17 And that million dollars of assets is
18 comprised of \$500,000 of gold that the company has
19 owned for years and years and years and is going to
20 own for years and years and years.

21 A. It's buried in the backyard.

22 Q. It's buried in the backyard. And during the

1 months from July through December, the company goes
2 out and buys another million dollars of gold. So for
3 half a year, it has \$500,000. And for half, it's got
4 a million and a half. You're following me so far?

5 A. I am.

6 Q. And the company has \$500,000 in equity. And
7 during the latter six months of the year, it has a
8 million dollars of 60-day paper that it rolls over.
9 Are you with me so far?

10 A. During the latter part of the year?

11 Q. During the six months of the year, then it
12 picks up the other million dollars of gold.

13 Now, in this case, if we imagine that this
14 is a gold utility, rate base happens to equal capital
15 structure, but that's not necessarily going to occur
16 in the real world; right?

17 A. That's true.

18 Q. But for simplicity, will you run with my
19 example?

20 A. Yeah.

21 Q. Okay. Now, is it your view that on
22 June 30th, 100 percent of the half million dollars of

1 gold buried in the backyard is financed by equity?

2 A. I believe it would have to be if there's no
3 other debt outstanding or no other source of
4 financial capital.

5 Q. Is it your view that on July 1st, two-thirds
6 of the half -- sorry, half of the half million
7 dollars of gold in the backyard is now financed by
8 60-day paper?

9 A. Since capital is not fungible, that's
10 correct.

11 Q. Do you think that's how an investor in that
12 60-day paper is actually going to see it?

13 A. The investor is going to consider the
14 overall situation of the company.

15 Q. Including the fact that the investment in
16 the gold in the backyard may or may not be permanent;
17 right?

18 A. That's correct. That the company could draw
19 down on the investment in the backyard. To me, it's
20 obligations.

21 Q. Mr. Thomas, you use a sample of companies
22 with respect to your calculation of the proposed

1 return on equity; am I correct?

2 A. That's correct.

3 Q. And you have investigated what the
4 appropriate companies are to include in that sample?

5 A. That's correct.

6 Q. Is there any difference between your sample
7 and that suggested by Dr. Makholm?

8 A. I don't believe that there is.
9 Dr. Makholm's selection criteria seemed reasonable to
10 me. And I know of no strong financial theory that
11 dictates specific criteria. I think it's been
12 supported previously in this hearing?

13 Q. And now for something completely different,
14 let's talk about gas mains for a few minutes.

15 A. All right.

16 Q. On approximately Lines 655 through 659 of
17 Page 29 of your rebuttal testimony, you discuss the
18 principal of cost causation and state -- I'll do my
19 best to quote -- Since Nicor's service territory has
20 remained fixed, it is difficult to definitively say
21 that these costs -- and I believe you're referring to
22 customer-related costs -- vary in relation to the

1 number of customers receiving gas service from Nicor,
2 period.

3 For example, if a customer drops off Nicor's
4 system, general plant expense and underground storage
5 expenses will likely stay the same.

6 Did I accurately read it?

7 A. You did.

8 Q. And is it your intention in offering that
9 testimony to make an argument or explanation to the
10 Commission that since a change in the number of
11 customers would not change the level of the general
12 plant expense or underground storage expense, that
13 that is one reason to not attribute those costs
14 lightly to the customer charge?

15 A. It makes them difficult. It makes it
16 difficult to attribute those costs directly to the
17 customer.

18 Q. If I were to tell you -- strike that,
19 please.

20 Would the following then also be true:
21 Assuming that Nicor Gas' total sendout has remained
22 relatively flat -- I'm going to quote back your

1 testimony with some words substituted.

2 Since Nicor's total sendout has remained
3 fixed, it is difficult to definitively say that these
4 costs vary in relation to the number of annual therms
5 of gas service from Nicor.

6 For example, if a customer uses less gas
7 annually, but maintains the same peak, main
8 investment will likely stay the same.

9 MS. DOSS: You're doing this as a hypothetical?

10 MR. RIPPIE: Yes.

11 BY MR. RIPPIE:

12 Q. Assuming my hypothetical statement was
13 correct, would the argument follow?

14 A. Let me make sure I understand, if I could.
15 Your example, the peak has stayed the same and the
16 customer's average usage is less? Average usage on
17 the system is less?

18 Q. The individual residential in this case --
19 let's say it's a residential customer -- has used
20 less gas, but has maintained a constant peak.

21 A. The system will still have to be sized to
22 meet that peak.

1 Q. Now, on Page 23, Lines 506 to 520 --

2 A. Excuse me. What was the page number?

3 Q. Sorry. I believe it's 23, Lines 506 to 520.

4 You testified concerning your view of --

5 MS. DOSS: Wait a minute.

6 MR. RIPPIE: Sure. I'm sorry.

7 MR. KELTER: This is in his rebuttal?

8 MR. RIPPIE: Yes, I think so.

9 BY MR. RIPPIE:

10 Q. Now, as I understand your position, you were

11 supporting an average in peak allocator?

12 A. That's correct.

13 Q. And you are not supporting the NBM study?

14 A. That's correct.

15 Q. On Lines 51- -- have you read 506 to 520?

16 A. I have.

17 Q. I want to give you the context. I'm going

18 to now ask you a question about three particular

19 lines in that context.

20 On Lines 514 to 517, you testify that Nicor

21 will continue to make investment decisions geared at

22 maintaining a system capable of meeting peaks needs.

1 Annual demand causes mains to be installed and these
2 mains must be capable of meeting peak day flow.

3 Have I read it accurately?

4 A. You have.

5 Q. For the sake of this hypothetical, please
6 assume that a gas utility owns one main and one main
7 only and that it's annual demand is 365 MMCF.

8 A. Okay.

9 Q. And that that occurs, not coincidentally, at
10 the rate of one MMCF per day, all day, every day,
11 24 hours a day.

12 A. Okay.

13 Q. And let's say for the sake of argument --
14 and, please, don't criticize my engineering, it's a
15 hypothetical -- that that amount of flow requires a
16 2-inch main.

17 A. Okay.

18 Q. Now, as I understand your testimony, are you
19 testifying that this 2-inch main must meet both the
20 peak demand of one MMCF per day and the annual demand
21 of 365 MMCF per year?

22 A. That's correct.

1 Q. Now, I would like you to assume that the
2 demand profile changes so that the daily peak rises
3 to 10 MMCF in the middle of the winter, but that the
4 annual demand remains 365 MMCF. Assuming that the
5 2-inch main was capable of sustaining a flow of one
6 MMCF per day, the utility will have to upgrade its
7 main, won't it?

8 A. That's true.

9 Q. For the sake of argument, I'm going to ask
10 you to go with me and assume that what they have to
11 put in is a 4-inch main.

12 A. Okay.

13 Q. Is it your testimony that under this
14 circumstance, you would attribute the 4-inch main to
15 both average and peak demand?

16 A. I think we would hope that the company had
17 foreseen the change in demand and sized its system
18 accordingly from its initial investment, in which
19 case the incremental cost would be less than a
20 completely new 4-inch main.

21 Q. I will accept your revision that the
22 incremental cost is less than the entire cost. Is it

1 your testimony at that time incremental costs should
2 be allocated to both average and peak demand?

3 A. Lacking a more comprehensive way to do that,
4 it is. I think there are many ways we could look at
5 cost allocation. And given the options available in
6 this docket, I think the average peak is the most
7 accurate.

8 Q. Okay. Now, if I could get you off the
9 hypothetical and onto the actual Nicor Gas system.

10 Would you agree that if you were a customer
11 who is attached to a 4-inch Nicor Gas distribution
12 main, that none of the gas you consume ever flows
13 through a 2-inch main?

14 A. I don't know if I can agree to none. It's
15 likely that very little, if any, but I can't say
16 absolutely that none because gas does flow as a
17 function of pressure differences. It doesn't only
18 flow in one direction.

19 Q. Barring unusual pressure circumstances on
20 the system, the gas there flows through these smaller
21 mains?

22 A. That's correct.

1 Q. And is there something unique about the fact
2 that I chose those two main sizes?

3 A. Over the sizes of mains again?

4 Q. That's what -- could I ask you -- let me put
5 it this way. I'll withdraw that question.

6 Could I ask you the general question that,
7 absent unusual flow patterns on the system, none of
8 the gas that serves a customer on a smaller main will
9 flow through a larger main, and get the same answer?

10 A. Could you ask me that question again because
11 I think you mixed up your example. I would say no to
12 the question you just asked. I don't think --

13 Q. I think I asked it backwards.

14 The question I meant to ask you was, would
15 you agree that absent unusual pressure surges on the
16 system, none of the gas serving a customer attached
17 to a larger main flows through a smaller diameter
18 main?

19 A. I would say that's correct, generally.

20 (Discussion off the record.)

21 JUDGE ARIDAS: Let's resume the cross.

22

1 BY MR. RIPPKE:

2 Q. Is it correct that your testimony concerning
3 energy efficiency programs is not based on any
4 independent study or analysis of the economic or
5 engineering efficiency of any specific energy
6 efficiency program for the Nicor Gas service
7 territory?

8 A. I did not perform an independent analysis,
9 that's correct.

10 Q. Would that also be true if I asked you the
11 cost effectiveness as opposed to the efficiency?

12 A. Of energy efficiency programs, that's
13 correct.

14 Q. I just want to make sure I understand the
15 couple corrections you made to your testimony.

16 As I understand the corrections, it's your
17 testimony that if the Commission were to direct that
18 Nicor Gas expend \$10 million, for the sake of
19 argument, on energy efficiency programs, that \$10
20 million should be included in base rates, not in rate
21 base; right?

22 A. That's correct.

1 Q. Do you agree -- well, let me first ask you
2 to take a quick look at Page 33 of your direct
3 testimony, Lines 737 through 738 or even 740.

4 A. Okay.

5 Q. Do you agree that Nicor Gas' rate design is
6 likely to encourage efficiency by reason of the way
7 in which the individual component charges are
8 designed?

9 A. I'm not sure that I can agree with that
10 given the study that I referenced that average usage
11 may be more important than marginal -- or average
12 price may be more important than marginal price in
13 customer decision-making.

14 Q. I was trying hard not to drag the average
15 marginal controversy into this, but to just talk to
16 you about the amounts of the charges set.

17 As I understand it, you are supportive of
18 the -- putting aside revenue requirement issues, you
19 are supportive of the result of the process by which
20 Nicor Gas set the individual component charges; is
21 that correct?

22 A. That's correct.

1 Q. Okay. Would you agree that the result of
2 that process in this case will tend to encourage
3 energy efficiency?

4 A. To the extent that customers respond to the
5 price of the last unit of gas on the margin, it
6 should tend to encourage more efficient consumption
7 than existing rates.

8 Q. Okay. If you will allow me just a second, I
9 only have one other very short line of questioning.

10 At the very beginning of my cross
11 examination, you indicated that you had proposed to
12 use an actual capital structure of the firm -- in
13 this case, Nicor Gas -- that included short-term
14 debt; is that correct?

15 A. Includes the average balance of short-term
16 debt.

17 Q. You don't dispute Nicor Gas is currently out
18 of short-term debt, do you?

19 A. No.

20 Q. And that it has been for several months?

21 A. I don't doubt that.

22 MR. RIPPIE: That's all I have. Thanks very

1 much.

2 JUDGE ARIDAS: Any redirect?

3 MS. DOSS: No redirect.

4 JUDGE ARIDAS: Thank you, Mr. Thomas.

5 THE WITNESS: Thank you.

6 JUDGE ARIDAS: All right. That's going to

7 conclude the witness presentation for today. So we

8 will -- are there any other matters we need to

9 discuss?

10 MR. REICHART: Can we talk about witness order

11 for tomorrow?

12 MR. KELTER: And there is one other issue.

13 MR. RIPPIE: Let's do witness order first.

14 MR. KELTER: Okay.

15 MR. RIPPIE: As I understood it, it was going to

16 be beginning with Staff witness Luth, then

17 Mr. Rosenberg as an IIEC witness, followed by --

18 which would be the two rate design technical

19 testimonies, followed up by Mr. Rosenberg's joint

20 testimony submitted on behalf of both IIEC and CNE

21 Gas.

22 MR. REICHART: Okay.

1 JUDGE ARIDAS: Okay. Estimated time of cross for
2 all that is going to be -- anybody know?

3 MR. RIPPIE: Well, based on the latest
4 information we have, that will be, if not a whole
5 day, longer than today.

6 JUDGE ARIDAS: Okay. Fair enough.

7 Mr. Kelter?

8 MR. KELTER: Yes, your Honor.

9 Given your ruling regarding Mr. Gallagher's
10 testimony, we wanted to discuss making an offer of
11 proof on Friday. And Mr. Rippie and I had discussed
12 how we thought it was appropriate to go about doing
13 that.

14 I wanted to run it by you so that if we
15 don't fly Mr. Gallagher in to put him on the stand
16 and make an offer of proof, we weren't making some
17 error in your eyes.

18 So Mr. Rippie and I reviewed the Illinois
19 Supreme Court ruling on this. And we believe that if
20 we submit a statement that outlines what
21 Mr. Gallagher's testimony would be, that that's
22 sufficient and then there's no need for Mr. Rippie to

1 do cross examination and put on additional witnesses;
2 that if, at a later time, our appeal on this issue is
3 granted, then we would reopen the record and put the
4 witness on and Mr. Rippie would have an opportunity
5 to do discovery and cross examination at that time.

6 Is that an accurate characterization?

7 MR. RIPPIE: Pretty much. We're in agreement
8 on -- at least Mr. Kelter and I are in agreement as
9 to what the case law says. I think it was implied by
10 his -- Mr. Kelter's comments that that statement has
11 to be more than conclusions. It has to be a
12 statement of what the evidence would show factually.

13 But that is also my understanding of what
14 the case law requires in the nature of an offer of
15 proof. And if it would be helpful to your Honors, I
16 know that Mr. Kelter actually had a copy of the case
17 the other day. I don't know if you have it with you.

18 MR. KELTER: The big issue is that I think
19 Mr. Rippie and I were in agreement that we didn't
20 want to fly our witness in and have him go through
21 the lengthy -- have all of us go through the lengthy
22 exercise of me putting in his direct and then have

1 Mr. Rippie not only cross examine him, but also put
2 on their rebuttal witnesses as we had envisioned
3 earlier, that this was a -- made more sense for all
4 of us.

5 JUDGE ARIDAS: You will be filing your response
6 today at 5:00?

7 MR. RIPPIE: Actually, I expect it -- I don't
8 want to say momentarily, but any minute. It was
9 being copied as I left the office after lunch.

10 JUDGE ARIDAS: We have no problem with this offer
11 of proof, solution, or compromise that you came up
12 with. We'd like to see the case for that offer of
13 proof.

14 If, for some reason, for whatever reason, as
15 you pursue your appellate options within the
16 Commission, we have to come back and reopen the
17 record to do the whole witness thing, we'll do that
18 at that time.

19 MR. KELTER: That was our understanding.
20 Correct, Mr. Rippie?

21 MR. RIPPIE: Yes.

22 JUDGE ARIDAS: Okay. Fair enough.

